

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MELISSA OSTRANDER, Plaintiff)	
)	
v.)	CIVIL ACTION NO. 04-30197-MAP
)	
HUSSMANN CORPORATION,)	
Defendants)	

DEFENDANT, HUSSMAN CORPORATION'S MOTION FOR AN ORDER
COMPELLING NON-PARTY DEPONENT TO COMPLY WITH SUBPOENA
[FED. R. CIV. P. 37(a)]

Now comes the defendant Hussmann Corporation and moves the court for an order compelling a non-party, Mass. Retail Merchants Insurance Company ("MRM"), Braintree, Massachusetts, and overruling MRM's objections on the basis of unspecified privileges or deeming them waived for failure to comply with the requirements of FED. R. Civ. P. 26(b)(5) (party withholding information based on privilege "shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable all the other parties to assess the applicability of the privilege or protection."). See L.R. 34.1(E). Hussmann also requests an award of attorney's fees under FED. R. CIV. P. 37(a)(4)(A).

In support of this motion, Hussmann files herewith an accompanying memorandum of law, an affidavit of counsel, and an appendix of cases.

WHEREFORE, Hussman respectfully requests the Court to issue an order compelling MRM to produce all subpoenaed documents forthwith, and order the payment of reasonable attorney's fees.

HUSSMANN CORPORATION, Defendant

By 
JOHN B. STEWART (BBO #551180)
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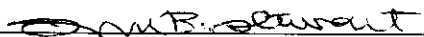
CERTIFICATE OF COMPLIANCE

I certify that prior to the filing of this motion I have conferred with counsel representing MRM in good faith to resolve or narrow the issue presented in the above motion in accordance with L.R. 7.1(A)(2) and L.R. 37.1.


JOHN B. STEWART (BBO #551180)
MORIARTY, DONOGHUE & LEJA, P.C.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing motion, supporting affidavit, memorandum, and appendix of cases were served upon each other party or counsel of records by mail on December 21, 2004.


JOHN B. STEWART (BBO #551180)
MORIARTY, DONOGHUE & LEJA, P.C.